

## REMARKS

Receipt of the Office Action of September 17, 2004 is gratefully acknowledged.

Claims 5 - 8 are pending with claims 7 and 8 withdrawn from further consideration and claims 5 and 6 rejected under the judicially created doctrine of obviousness-type double patenting over co-pending application no. 10/736,701 (U.S. 2004/0142201 A1).

This rejection is respectfully traversed.

We have neither common inventive entity or ownership in this application and application no. 10/736,701.

The two applications share two inventors, Messrs. Toshihiko Yamashita and Masao Morishima, not four inventors. Also, the assignee is not common in these applications. The present application is assigned to Kushibe Manufacturing Co. Ltd., while the '701 application is assigned to Kushibe Manufacturing and Hitachi Maxell, Ltd.

With neither a common assignee nor a common inventive entity, the double patenting rejection cannot stand.

In view of the foregoing, the Examiner is urged to reconsider her position and to allow claims 5 and 6.

Date: Dec. 17, 2004

Respectfully submitted,



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